

# Senate Study Bill 3154 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CHAIRPERSON DAWSON)

## A BILL FOR

1 An Act relating to state taxation and administration by  
2 modifying sales and use taxes, individual and corporate  
3 income taxes, the automobile rental excise tax, the  
4 franchise tax, and the insurance premiums tax, and including  
5 effective date, applicability, and retroactive applicability  
6 provisions.  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

SALES AND USE TAX ON SERVICES AND EXEMPTIONS

Section 1. Section 423.2, subsection 6, paragraph bu, Code 2022, is amended to read as follows:

*bu.* ~~Software as a service~~ Cloud computing.

Sec. 2. Section 423.2, subsection 6, Code 2022, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *bv.* Web hosting.

NEW PARAGRAPH. *bw.* Digital automated services.

NEW PARAGRAPH. *bx.* Scooter rentals.

Sec. 3. Section 423.3, subsection 8, paragraph d, subparagraph (1), Code 2022, is amended by adding the following new subparagraph division:

NEW SUBPARAGRAPH DIVISION. (e) A specified digital product.

Sec. 4. Section 423.3, subsection 47, paragraph a, subparagraph (4), Code 2022, is amended by striking the subparagraph.

Sec. 5. Section 423.3, subsection 68, paragraph c, subparagraph (1), subparagraph division (a), Code 2022, is amended to read as follows:

(a) "*Clothing*" includes but is not limited to the following: aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; ~~diapers (children and adults, including disposable~~ ~~diapers)~~; earmuffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoelaces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel.

Sec. 6. Section 423.3, subsection 104, paragraph a, Code 2022, is amended to read as follows:

1     a. The sales price of specified digital products and of  
2     prewritten computer software sold, and of enumerated services  
3     described in section 423.2, subsection 1, paragraph "a",  
4     subparagraph (5), or section 423.2, subsection 6, paragraphs  
5     "bq", "br", "bs", and "bu", "bv", and "bw" furnished, to a  
6     commercial enterprise for use exclusively by the commercial  
7     enterprise. The use of prewritten computer software, a  
8     specified digital product, or service fails to qualify as a  
9     use exclusively by the commercial enterprise if its use for  
10    noncommercial purposes is more than de minimis.

11    Sec. 7. Section 423.3, subsection 104, paragraph b,  
12    subparagraph (1), Code 2022, is amended to read as follows:

13    (1) "*Commercial enterprise*" means the same as defined in  
14    section 423.3, subsection 47, paragraph "d", subparagraph (1),  
15    ~~but also includes professions and occupations and includes~~  
16    public utilities as defined in section 476.1, subsection 3.

17    Sec. 8. Section 423.3, Code 2022, is amended by adding the  
18    following new subsections:

19    NEW SUBSECTION. 107. The sales price from the sale of  
20    period products. For purposes of this subsection, "*period*  
21    *products*" means sanitary napkins or pads, tampons, menstrual  
22    cups, or other similar items used in connection with the  
23    menstrual cycle.

24    NEW SUBSECTION. 108. The sales price from the sale of a  
25    child or adult diaper, whether cloth or disposable.

26    Sec. 9. EFFECTIVE DATE. This division of this Act takes  
27    effect January 1, 2023.

28                                   DIVISION II

29                                   AUTOMOBILE RENTAL EXCISE TAX

30    Sec. 10. Section 423.14A, subsection 1, paragraph b,  
31    subparagraph (3), Code 2022, is amended by striking the  
32    subparagraph.

33    Sec. 11. Section 423C.2, subsection 7, Code 2022, is amended  
34    by striking the subsection.

35    Sec. 12. Section 423C.3, subsection 3, paragraph b, Code

1 2022, is amended by striking the paragraph.

2 Sec. 13. EFFECTIVE DATE. This division of this Act takes  
3 effect January 1, 2023.

4 DIVISION III

5 MANUFACTURED FOOD — SALES TAX EXEMPTION

6 Sec. 14. Section 423.3, subsection 49, Code 2022, is amended  
7 to read as follows:

8 49. a. The sales price from the sale of carbon dioxide  
9 in a liquid, solid, or gaseous form, electricity, steam, and  
10 other taxable services and the lease or rental of tangible  
11 personal property when used by a manufacturer ~~of food products~~  
12 to primarily produce marketable food products for human  
13 consumption food or food ingredients, including but not  
14 limited to treatment of material to change its form, context,  
15 or condition, in order to produce the food ~~product~~ or food  
16 ingredients, maintenance of quality or integrity of the  
17 food ~~product~~ or food ingredients, changing or maintenance of  
18 temperature levels necessary to avoid spoilage or to hold the  
19 food ~~product~~ or food ingredients in marketable condition,  
20 maintenance of environmental conditions necessary for the safe  
21 or efficient use of machinery and material used to produce  
22 the food ~~product~~ or food ingredients, sanitation and quality  
23 control activities, formation of packaging, placement into  
24 shipping containers, and movement of the material or food  
25 ~~product~~ or food ingredients until shipment from the building  
26 of manufacture.

27 b. For purposes of this subsection, "food or food  
28 ingredients" means the same as "food and food ingredients" as  
29 defined in subsection 57, paragraph "d", and includes tangible  
30 personal property that could be sold for ingestion or chewing  
31 by humans but is sold for another use.

32 Sec. 15. REFUNDS. Refunds of taxes, interest, or penalties  
33 which arise from the enactment of this division of this Act,  
34 for sales or services occurring between January 1, 2019, and  
35 the effective date of this division of this Act, shall be

1 limited to one hundred thousand dollars in the aggregate for  
2 any calendar year in which claims are eligible for a refund and  
3 shall not be allowed unless refund claims are filed by October  
4 1, 2022, notwithstanding any other law to the contrary. If the  
5 amount of claims totals more than one hundred thousand dollars  
6 in the aggregate for any calendar year in which claims are  
7 eligible for a refund, the department of revenue shall prorate  
8 the one hundred thousand dollars in the aggregate among all the  
9 claimants for that particular calendar year in relation to the  
10 amounts of the claimants' valid claims.

11 Sec. 16. EFFECTIVE DATE. This division of this Act, being  
12 deemed of immediate importance, takes effect upon enactment.

13 Sec. 17. RETROACTIVE APPLICABILITY. This division of this  
14 Act applies retroactively to January 1, 2019.

15 DIVISION IV

16 NATIONAL GUARD PAY

17 Sec. 18. Section 422.7, Code 2022, is amended by adding the  
18 following new subsection:

19 NEW SUBSECTION. 42B. Subtract, to the extent included, up  
20 to twenty thousand dollars of pay received by the taxpayer for  
21 service pursuant to 32 U.S.C. §502.

22 Sec. 19. APPLICABILITY. This division of this Act applies  
23 to tax years beginning on or after January 1, 2023.

24 DIVISION V

25 NET OPERATING LOSS DEDUCTION

26 Sec. 20. 2018 Iowa Acts, chapter 1161, section 120, is  
27 amended by striking the section and inserting in lieu thereof  
28 the following:

29 SEC. 120. [Section 422.9](#), Code 2018, is amended by striking  
30 the section and inserting in lieu thereof the following:

31 **422.9 Calculation of Iowa net operating loss — deduction.**

32 1. Any available net operating loss carryforward amount as  
33 described in subsection 3 shall be deducted from the Iowa net  
34 income of the taxpayer.

35 2. The deduction allowed under subsection 1 shall not exceed

1 eighty percent of the Iowa net income as determined under  
2 section 422.7 computed without regard to the deductions under  
3 this section and, to the extent included in the Iowa net income  
4 calculation, sections 199A and 250 of the Internal Revenue  
5 Code.

6 3. If, after applying all of the adjustments provided for in  
7 section 422.7 and the allocation provisions of section 422.8,  
8 and subject to the modifications provided in section 172(d)  
9 of the Internal Revenue Code, the taxable income results in  
10 a net operating loss, such Iowa net operating loss, if any,  
11 shall be carried forward and such carryforward amounts shall be  
12 available as a deduction under this section in future years.

13 Sec. 21. 2018 Iowa Acts, chapter 1161, section 129, is  
14 amended by striking the section and inserting in lieu thereof  
15 the following:

16 SEC. 129. [Section 422.35, subsection 11](#), Code 2018, is  
17 amended by striking the subsection and inserting in lieu  
18 thereof the following:

19 11. a. Subtract to the extent available any net operating  
20 loss carryforward amount as described in this subsection not  
21 to exceed eighty percent of the Iowa net income as determined  
22 under this section, computed without regard to the deductions  
23 under this subsection and, to the extent included in the Iowa  
24 net income calculation, section 250 of the Internal Revenue  
25 Code.

26 b. If after applying all of the adjustments provided for in  
27 this section and the allocation and apportionment provisions  
28 of section 422.33, the Iowa taxable income results in a net  
29 operating loss, such Iowa net operating loss shall be carried  
30 forward and such carryforward amounts shall be available as a  
31 deduction under this subsection in future years.

32 c. Any portion of a net operating loss which was sustained  
33 from that portion of the trade or business carried on outside  
34 the state of Iowa shall not be deducted.

35 d. The deductions described in this subsection are allowed

1 subject to the requirement that a corporation affected by the  
2 allocation provisions of section 422.33 shall be permitted to  
3 deduct only that portion of the deductions for net operating  
4 loss that is fairly and equitably allocable to Iowa, under  
5 rules prescribed by the director.

6 Sec. 22. EFFECTIVE DATE. This division of this Act takes  
7 effect January 1, 2023.

8 Sec. 23. APPLICABILITY. This division of this Act applies  
9 to tax years beginning on or after January 1, 2023.

10 DIVISION VI

11 CHANGES TO SALE OF CERTAIN QUALIFIED STOCK PROVISIONS

12 Sec. 24. Section 422.7, subsection 63, paragraph c,  
13 subparagraph (2), as enacted by 2022 Iowa Acts, House File  
14 2317, section 1, is amended to read as follows:

15 (2) "*Employee-owner*" means an individual who owns capital  
16 stock in a qualified corporation for at least ten years, which  
17 capital stock was acquired by the individual while employed and  
18 on account of employment by ~~such~~ any qualified corporation for  
19 at least ten cumulative years.

20 Sec. 25. Section 422.7, subsection 63, paragraph c,  
21 subparagraph (4), subparagraph division (b), as enacted by 2022  
22 Iowa Acts, House File 2317, section 1, is amended to read as  
23 follows:

24 (b) "*Qualified corporation*" includes any member of an Iowa  
25 affiliated group if the Iowa affiliated group includes a member  
26 that has employed individuals in this state for at least ten  
27 years. For purposes of this subparagraph division, "*Iowa*  
28 *affiliated group*" means an affiliated group that ~~has made~~ is  
29 eligible to make a valid election to file an Iowa consolidated  
30 income tax return under section 422.37 in the year in which  
31 the deduction under this subsection is claimed. "*Member*"  
32 includes any entity that is eligible to be included in the a  
33 consolidated return under section 422.37, subsection 2, for the  
34 tax year in which the deduction is claimed.

35 Sec. 26. EFFECTIVE DATE. This division of this Act takes

1 effect January 1, 2023.

2 Sec. 27. APPLICABILITY. This division of this Act applies  
3 to tax years beginning on or after January 1, 2023.

4 DIVISION VII

5 FRANCHISE TAX

6 Sec. 28. Section 422.63, Code 2022, is amended to read as  
7 follows:

8 **422.63 Amount of tax.**

9 1. The franchise tax is imposed annually in an amount equal  
10 to five the percent specified in subsection 2 of the net income  
11 received or accrued during the taxable year. If the net income  
12 of the financial institution is derived from its business  
13 carried on entirely within the state, the tax shall be imposed  
14 on the entire net income, but if the business is carried on  
15 partly within and partly without the state, the portion of net  
16 income reasonably attributable to the business within the state  
17 shall be specifically allocated or equitably apportioned within  
18 and without the state under rules of the director.

19 2. a. For tax years beginning prior to January 1, 2023,  
20 five percent.

21 b. For tax years beginning on or after January 1, 2023, but  
22 before January 1, 2024, four and four-fifths percent.

23 c. For tax years beginning on or after January 1, 2024, but  
24 before January 1, 2025, four and three-fifths percent.

25 d. For tax years beginning on or after January 1, 2025, but  
26 before January 1, 2026, four and two-fifths percent.

27 e. For tax years beginning on or after January 1, 2026, but  
28 before January 1, 2027, four and one-fifth percent.

29 f. For tax years beginning on or after January 1, 2027,  
30 three and nine-tenths percent.

31 DIVISION VIII

32 INSURANCE PREMIUMS TAX

33 Sec. 29. Section 432.1, subsection 2, Code 2022, is amended  
34 to read as follows:

35 2. The “*applicable percent*” for purposes of subsection 1 of

1 this section and [section 432.2](#) is the following:

2     a. For calendar years beginning before the 2003 calendar  
3 year, two percent.

4     *b.* For the 2003 calendar year, one and three-fourths  
5 percent.

6      *c.* For the 2004 calendar year, one and one-half percent.

7     *d.* For the 2005 calendar year, one and one-fourth percent.

8 e. For the 2006 and subsequent calendar years year through  
9 the 2022 calendar year, one percent.

10 f. For the 2023 calendar year, ninety-five hundredths of one  
11 percent.

12 g. For the 2024 and subsequent calendar years, nine-tenths  
13 of one percent.

14      Sec. 30. Section 432.1, subsection 4, Code 2022, is amended  
15 to read as follows:

16       4. The "*applicable percent*" for purposes of subsection 3 is  
17 the following:

18     *a.* For calendar years beginning before the 2004 calendar  
19 year, two percent.

20     *b.* For the 2004 calendar year, one and three-fourths  
21 percent.

22      *c.* For the 2005 calendar year, one and one-half percent.

23      *d.* For the 2006 calendar year, one and one-fourth percent.

24 e. For the 2007 and ~~subsequent~~ calendar years year through  
25 the 2022 calendar year, one percent.

26 f. For the 2023 calendar year, ninety-five hundredths of one  
27 percent.

28 g. For the 2024 and subsequent calendar years, nine-tenths  
29 of one percent.

30	EXPLANATION
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31 The inclusion of this explanation does not constitute agreement with  
32 the explanation's substance by the members of the general assembly.

33       This bill relates to state taxation and administration by  
34 modifying sales and use taxes, individual and corporate income  
35 taxes, the automobile rental excise tax, the franchise tax, and

1 the insurance premium tax.

2 DIVISION I — SALES AND USE TAX ON SERVICES AND EXEMPTIONS.

3 The bill strikes "software as a service" and substitutes "cloud  
4 computing" as a service for purposes of imposing sales tax.

5 The bill makes the following services subject to the sales tax:  
6 web hosting, digital automated services, and scooter. However,  
7 the bill exempts web hosting and digital automated services  
8 from the sales tax when furnished to a commercial enterprise  
9 for use exclusively by the commercial enterprise.

10 The bill exempts "specified digital products" from the sales  
11 tax when used in agricultural production.

12 The bill strikes the sales and use tax exemption on the  
13 sales price from the sale or rental of computer or computer  
14 peripherals by an insurance company, financial institution, or  
15 commercial enterprise.

16 The bill exempts from the sales tax the sale of period  
17 products and child and adult diapers. Period products are  
18 defined in the bill.

19 The bill strikes "professions and occupations" from  
20 the definition of "commercial enterprise" in Code section  
21 423.3(104) thus making sales to professions and occupations  
22 related to prewritten software, specified digital services,  
23 and other services subject to the sales tax. The bill expands  
24 the definition of "commercial enterprise" to include a "public  
25 utility" as defined in Code section 476.1(3). As a result, the  
26 sales price of specified digital products, prewritten computer  
27 software, and other enumerated digital and computer services  
28 furnished to a public utility are exempt from the sales tax, if  
29 exclusively used by the public utility.

30 This division takes effect January 1, 2023.

31 DIVISION II — AUTOMOBILE RENTAL EXCISE TAX. The bill  
32 repeals an exception for the collection of the automobile  
33 rental excise tax of a person or an affiliate of a person who  
34 owns, operates, or controls an automobile peer-to-peer sharing  
35 marketplace.

1       This division takes effect January 1, 2023.

2       DIVISION III — MANUFACTURED FOOD — SALES TAX EXEMPTION.

3       The bill exempts from the sales tax the sales of certain items  
4       and services used by a manufacturer to primarily produce food  
5       or food ingredients, including the lease or rental of tangible  
6       personal property used to primarily produce such food or food  
7       ingredients.

8       The bill defines "food or food ingredients" to mean the same  
9       as defined in Code section 423.3(57)(d) and includes tangible  
10      personal property that could be sold for ingestion or chewing  
11      by humans but is sold for another use.

12      Under current law, in order to receive the sales tax  
13      exemption the items or services must be used to produce  
14      marketable food products for human consumption.

15      By operation of Code section 423.6, an item exempt from the  
16      imposition of the sales tax is also exempt from the use tax  
17      imposed in Code section 423.5.

18      The bill requires refunds of taxes, interest, or penalties  
19      arising from claims resulting from the enactment of the bill  
20      for sales or services occurring between January 1, 2019, and  
21      the effective date of the bill to be filed prior to October  
22      1, 2022. Refunds of taxes, interest, or penalties shall not  
23      exceed \$100,000 in the aggregate in any calendar year in which  
24      claims are eligible for a refund. If the amount of claims  
25      totals more than \$100,000 in the aggregate for any calendar  
26      year in which claims are eligible for a refund, the department  
27      of revenue shall prorate the \$100,000 in the aggregate among  
28      all the claimants for that particular calendar year.

29      This division takes effect upon enactment and applies  
30      retroactively to January 1, 2019.

31      DIVISION IV — NATIONAL GUARD PAY. The bill exempts from the  
32      individual income tax up to \$20,000 of pay received by a member  
33      of the national guard for any required drills, field exercises,  
34      or in the performance of any other orders under 32 U.S.C. §502.

35      This division applies to tax years beginning on or after

1 January 1, 2023.

2 DIVISION V — NET OPERATING LOSS DEDUCTION. For tax years  
3 beginning on or after January 1, 2023, 2018 Iowa Acts, chapter  
4 1161, sections 120, 128, and 129, are set to go into effect,  
5 which provide that a net operating loss will no longer be  
6 calculated at the state level for individual and corporate  
7 income taxpayers, as applicable, and requires such taxpayers  
8 to add back any federal net operating loss deduction carried  
9 over from a tax year beginning prior to January 1, 2023, but  
10 such taxpayers are allowed to deduct any remaining Iowa net  
11 operating loss from a prior taxable year. The net operating  
12 loss deduction remains available to taxpayers at the federal  
13 level.

14 INDIVIDUAL INCOME TAXPAYERS. For an individual income  
15 taxpayer with an available net operating loss carryforward  
16 amount prior to January 1, 2023, the bill limits the  
17 carryforward deduction amount to an amount not to exceed 80  
18 percent of Iowa net income without regard to the net operating  
19 loss deduction as calculated and, to the extent included in the  
20 Iowa net income calculation, without regard to sections 199A  
21 and 250 of the Internal Revenue Code.

22 For individual income taxpayers, if a net Iowa operating  
23 loss is calculated for tax years beginning on or after January  
24 1, 2023, the bill allows such a loss to be carried forward and  
25 be available as a deduction in future years.

26 CORPORATE INCOME TAXPAYERS. For a corporate income taxpayer  
27 with an available net operating loss carryforward amount prior  
28 to January 1, 2023, the bill limits the carryforward deduction  
29 amount to an amount not to exceed 80 percent of Iowa net  
30 income without regard to the net operating loss deduction as  
31 calculated and, to the extent included in the Iowa net income  
32 calculation, without regard to section 250 of the Internal  
33 Revenue Code.

34 For corporate income taxpayers, if a net Iowa operating loss  
35 is calculated for tax years beginning on or after January 1,

1 2023, the bill allows such a loss to be carried forward and be  
2 available as a deduction in future years.

3 EFFECTIVE DATE AND APPLICABILITY. This division takes  
4 effect January 1, 2023, and applies to tax years beginning on  
5 or after that date.

6 DIVISION VI — CHANGES TO SALE OF CERTAIN QUALIFIED STOCK  
7 PROVISIONS. The bill makes changes to provisions related to  
8 the sale of certain qualified stock in 2022 Iowa Acts, House  
9 File 2317, as enacted. 2022 Iowa Acts, House File 2317,  
10 grants an employee-owner one irrevocable lifetime election  
11 to exclude from state individual income tax the net capital  
12 gain from the state of the capital stock on one qualified  
13 corporation. The bill expands the definition of "qualified  
14 corporation" to include any "member" of an Iowa affiliate group  
15 if the affiliated group is eligible to make a valid election  
16 to file an Iowa consolidated income tax return under Code  
17 section 422.37 in the year the qualified stock sale deduction  
18 is made. The bill expands the definition of "member" under  
19 the definition of "qualified corporation" in 2022 Iowa Acts,  
20 House File 2317, to include any entity that is eligible to be  
21 included in a consolidated return under Code section 422.37(2)  
22 if an election is made to file a consolidated return.

23 This division takes effect January 1, 2023, and applies to  
24 tax years beginning on or after that date.

25 DIVISION VII — FRANCHISE TAX. The bill phases in a  
26 reduction of the current franchise tax of 5 percent of net  
27 income as follows: Commencing with the tax years beginning  
28 during the 2023 calendar year, 4.80 percent; for tax years  
29 beginning during the 2024 calendar year, 4.60 percent; for tax  
30 years beginning during the 2025 calendar year, 4.40 percent;  
31 for tax years beginning during the 2026 calendar year, 4.20  
32 percent; and for all tax years beginning on or after January  
33 1, 2027, 3.90 percent.

34 DIVISION VIII — INSURANCE PREMIUMS TAX. The bill reduces  
35 the insurance premiums tax on the gross amount of premiums

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1 received by an insurance company from 1 percent to .95 percent  
2 in calendar year 2023, and from .95 percent to .90 percent for  
3 the 2024 calendar year and subsequent calendar years.